IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION

MARK H. WITTSTADT and GERARD WM. WITTSTADT, JR., Plaintiffs, v. ROBERT H. HOSCH, JR., BUTLER & HOSCH, P.A., H. EDWARD BICKERS, JR., and DEFAULT CONSULTING GROUP, INC., Defendants.	Civil Action No. 1:16-CV-02251-CCB

DEFENDANT ROBERT H. HOSCH'S ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFFS' COMPLAINT

Defendant Robert H. Hosch ("Hosch" or "Defendant"), by counsel, hereby submits his Answer and Affirmative Defenses in response to Plaintiffs Mark H. Wittstadt and Gerard Wm. Wittstadt, Jr.'s ("Wittstadts" or "Plaintiffs") Complaint.

Defendant answers below the allegations in Plaintiffs' Complaint in paragraphs that correspond to the numbered paragraphs in Plaintiffs' Complaint, without waiving the subsequent affirmative defenses.

I. PARTIES

1. Defendant is without knowledge or information sufficient to admit or deny the allegations contained in paragraph 1 of the Complaint, and therefore denies them.

2. Defendant is without knowledge or information sufficient to admit or deny the allegations contained in paragraph 2 of the Complaint, and therefore denies them.

3. Defendant admits that he is an individual who resides in Dallas, Texas. To the extent the allegations of Paragraph 3 constitute legal conclusions, they require neither an

admission nor a denial. To the extent an admission or denial is required, Defendant denies the remaining allegations of Paragraph 3.

4. Defendant admits that during relevant times, Butler & Hosch, P.A. ("B&H") was a professional association organized under the laws of the State of Florida and was registered to do business in the State of Maryland. Defendant denies that its principal offices were at 9409 Philadelphia Road, Rosedale, Maryland 21237. To the extent the allegations of Paragraph 4 constitute legal conclusions, they require neither an admission nor a denial. To the extent that an admission or denial is required, Defendant denies the remaining allegations of Paragraph 4.

5. Defendant admits that H. Edward Bickers is an individual who resides in Dallas, Texas. To the extent the allegations of Paragraph 5 constitute legal conclusions, they require neither an admission nor a denial. To the extent an admission or denial is required, Defendant denies the remaining allegations of Paragraph 5.

6. Defendant admits that during relevant times, Default Consulting Group, Inc. ("DCG") was a corporation organized under the laws of the State of Florida and was registered to do business in the State of Maryland. Defendant denies that DCG's principal offices were at 9409 Philadelphia Road, Rosedale, Maryland 21237. To the extent the allegations of Paragraph 6 constitute legal conclusions, they require neither an admission nor a denial. To the extent that an admission or denial is required, Defendant denies the remaining allegations of Paragraph 6.

JURISDICTION AND VENUE

7. The allegations contained in paragraph 7 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant admits them.

8. The allegations contained in paragraph 8 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant admits them.

9. The allegations contained in paragraph 9 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant admits them.

FACTS COMMON TO ALL COUNTS

10. Defendant is without knowledge or information sufficient to admit or deny the allegations contained in paragraph 10 of the Complaint, and therefore denies them.

11. Defendant is without knowledge or information sufficient to admit or deny the allegations contained in paragraph 11 of the Complaint, and therefore denies them.

12. Defendant admits that he was an attorney licensed to practice law in the State of Florida, was the Senior Partner of B&H, and recently resigned from the Florida Bar. Defendant denies the remaining allegations contained in Paragraph 12 of the Complaint.

13. Defendant admits the allegations contained in Paragraph 13 of Plaintiffs' Complaint.

14. Defendant admits the allegations contained in Paragraph 14 of Plaintiffs' Complaint.

15. Defendant admits the allegations contained in Paragraph 15 of Plaintiffs' Complaint.

16. Defendant admits the allegations contained in Paragraph 16 of Plaintiffs' Complaint.

17. Defendant admits that at all times relevant, Defendant Hosch and Mr. Bickers were legally married but denies the remaining allegations contained in Paragraph 17 of Plaintiffs' Complaint.

18. Defendant denies the allegations contained in Paragraph 18.

19. Upon information and belief, Defendant admits the allegations contained in

paragraph 19 of the Complaint.

20. Defendant admits that MSW was a law firm with offices in a number of states and that the firm concentrated in primarily two arenas, presenting financial institutions in prosecuting residential foreclosures and related legal matters, and conducting residential real estate closings. Defendant is without knowledge or information sufficient to admit or deny the remaining allegations contained in paragraph 20 of the Complaint, and therefore denies them.

21. Defendant is without knowledge or information sufficient to admit or deny the allegations contained in paragraph 21 of the Complaint, and therefore denies them.

22. Defendant is without knowledge or information sufficient to admit or deny the allegations contained in paragraph 22 of the Complaint, and therefore denies them.

23. Defendant is without knowledge or information sufficient to admit or deny the allegations contained in paragraph 23 of the Complaint, and therefore denies them.

24. Defendant is without knowledge or information sufficient to admit or deny the allegations contained in paragraph 24 of the Complaint, and therefore denies them.

25. Defendant is without knowledge or information sufficient to admit or deny the allegations contained in paragraph 25 of the Complaint, and therefore denies them.

26. Defendant is without knowledge or information sufficient to admit or deny the allegations contained in paragraph 26 of the Complaint, and therefore denies them.

27. Defendant is without knowledge or information sufficient to admit or deny the allegations contained in paragraph 27 of the Complaint, and therefore denies them.

28. Defendant denies that he approached M. Wittstadt in late 2014. Defendant is without knowledge or information sufficient to admit or deny the remaining allegations contained in paragraph 28 of the Complaint, and therefore denies them.

29. Defendant admits that after he was approached by Arthur Morris of MSW, Defendant expressed an interest in MSW's foreclosure practice assets, but denies the remaining allegations contained on paragraph 29.

30. Defendant denies the allegations contained in Paragraph 30 of Plaintiffs' Complaint.

31. Defendant admits that he explained that DCG was the "back office" of B&H. Defendant denies the remaining allegations contained in Paragraph 31 of Plaintiffs' Complaint.

32. Defendant denies the allegation that B&H "would employ the Wittstadts," and admits the remaining allegations contained in paragraph 32.

33. Defendant denies the allegations contained in Paragraph 33 of Plaintiffs' Complaint.

34. The allegations contained in paragraph 34 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant denies them.

35. The allegations contained in paragraph 35 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant denies them. Answering further, Defendant is without knowledge or information sufficient to admit or deny the allegations contained in paragraph 35 of the Complaint, and therefore denies them.

36. Defendant admits the allegations contained in Paragraph 36 of Plaintiffs' Complaint.

37. Defendant admits the allegations that he signed the letter of intent as senior *partner*, not counsel, and the remaining allegations contained in Paragraph 37 of Plaintiffs' Complaint.

38. Defendant admits the allegations as senior *partner*, not counsel, and the remaining allegations contained in Paragraph 38 of Plaintiffs' Complaint.

39. Defendant admits the allegations contained in Paragraph 39 of Plaintiffs' Complaint.

40. Defendant admits that the proposed employment agreement, which also included termination provisions, stated that the initial term would be for five (5) years with an annual salary of $417,000.00, plus bonus and benefit provisions.

41. Defendant admits the allegations contained in Paragraph 41 of Plaintiffs' Complaint.

42. Defendant denies that "Nearly one hundred present [sic] of the clients agreed with the transaction." Answering further, Defendant is without knowledge or information sufficient to admit or deny the remaining allegations contained in paragraph 42 of the Complaint, and therefore denies them.

43. Defendant admits that from about February 1, 2015 through sometime in April 2015, DCG paid the Wittstadts the wages owed by B&H under their respective employment agreements.

44. Defendant denies the allegations contained in Paragraph 44 of Plaintiffs' Complaint.

45. Defendant denies the allegations contained in Paragraph 45 of Plaintiffs' Complaint.

46. Defendant admits that the Wittstadts were not invited to attend the conference call on May 14, 2015. Defendant further admits that Roy Kobert with Grey-Robinson in Orlando directed the conference call. Defendant is without knowledge or information sufficient to admit

or deny the remaining allegations contained in paragraph 46 of the Complaint, and therefore denies them.

47. Defendant is without knowledge or information sufficient to admit or deny the remaining allegations contained in paragraph 47 of the Complaint, and therefore denies them.

48. Defendant is without knowledge or information sufficient to admit or deny the allegations contained in paragraph 48 of the Complaint, and therefore denies them.

49. The allegations contained in paragraph 49 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant denies them. Answering further, Defendant denies the allegation "admitting his own negligence in acquiring the MSW default platform" contained in paragraph 49 of the Complaint. Defendant admits to sending an email as alleged in paragraph 49 of the Complaint indicating he stepped down as "CEO and Senior Partner." Defendant denies all remaining allegations in paragraph 49 of the Complaint.

50. Defendant admits that the employees of B&H were not paid during the last two weeks prior to the closing of the firm in late April 2015. Defendant denies the remaining allegations contained in Paragraph 50 of Plaintiffs' Complaint.

51. Defendant denies the allegations contained in Paragraph 51 of Plaintiffs' Complaint.

52. The allegations contained in paragraph 52 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant denies them.

COUNT ONE

(Negligence and Negligent Misrepresentation against Hosch and B&H)

53. Defendant incorporates by reference its responses to paragraphs 1 through 52 as if fully stated herein.

54. The allegations contained in paragraph 54 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant denies them.

55. Defendant denies the allegations contained in Paragraph 55 of Plaintiffs' Complaint.

56. The allegations contained in paragraph 56 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant denies them.

57. Defendant denies the allegations contained in Paragraph 57 of Plaintiffs' Complaint.

58. The allegations contained in paragraph 58 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant denies them.

59. The allegations contained in paragraph 59 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant denies them.

60. The allegations contained in paragraph 60 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant denies them.

61. The allegations contained in paragraph 61 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant denies them.

62. The allegations contained in paragraph 62 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant denies them.

63. The allegations contained in paragraph 63 of the Complaint constitute conclusions of law to which no response is required, but if a response is required, Defendant denies them.

COUNT TWO

64.-72. Count Two of the Complaint is not directed at Defendant Hosch. Therefore, Defendant Hosch is not required to respond to the allegations contained in Count Two. If a response is required, Defendant denies the allegations contained in Count Two, paragraphs 64-72 of the Complaint.

PRAYER FOR RELIEF

Defendant admits only that Plaintiffs demand the relief set forth in the "WHEREFORE" paragraph identified as (a) through (c), but denies that Plaintiffs are entitled to any such relief contained therein.

JURY TRIAL DEMAND

Defendant admits that Plaintiffs demand a jury trial, but denies that Plaintiffs are entitled to one.

To the extent not expressly admitted above, Defendant denies the allegations contained in the Complaint.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Plaintiffs' Complaint fails to state a claim upon which this Court may grant relief.

SECOND DEFENSE

Plaintiffs' Complaint is barred by the doctrines estoppel, waiver, and/or laches.

THIRD DEFENSE

Plaintiffs' Complaint, in whole and in part, is barred by the doctrine of unclean hands.

FOURTH DEFENSE

Plaintiffs' negligence and negligent misrepresentation claims are barred because Defendant, and anyone acting on his behalf, did not knowingly make any misrepresentations to Plaintiffs surrounding the facts alleged in the Complaint.

FIFTH DEFENSE

Plaintiffs' negligence and negligent misrepresentation claims are barred because

Defendant, and anyone acting on his behalf, did not intend to defraud Plaintiffs.

SIXTH DEFENSE

Defendant is informed and believes that further investigation and discovery will reveal, and on that basis allege, that Defendant's alleged representations, if any, were not knowingly false when made.

SEVENTH DEFENSE

Defendant alleges that Plaintiffs' negligence and negligent misrepresentation claims are barred to the extent that Plaintiff did not reasonably rely on any alleged statements made to Plaintiffs by Defendant.

EIGHTH DEFENSE

Defendant alleges that the Complaint and each cause of action alleged therein are barred, in whole or in part, by the doctrine of managerial immunity.

NINTH DEFENSE

Defendant is entitled to a set-off against Plaintiffs' claims for damages in the amount(s) that Plaintiffs did or could have earned through reasonable efforts and by seeking other employment.

TENTH DEFENSE

Any damages sustained by Plaintiffs were the result of intervening or superseding events, factors, occurrences or conditions. Such actions and inaction were in no way under Defendant's control or caused by Defendant and cannot result in liability to Defendant.

ELEVENTH DEFENSE

Defendant reserves the right to assert additional affirmative defenses as discovery proceeds.

WHEREFORE, Defendant prays for judgment against Plaintiffs as follows:

1. For an order dismissing Plaintiffs' claims with prejudice, and entering judgment in favor of Defendant and against Plaintiffs;

2. For all costs, disbursements, and reasonable attorneys' fees incurred by Defendant in connection with the defense of this matter; and

3. For any other such relief as the Court in the exercise of its discretion deems to be just and proper.

By: */s/ S. Libby Henninger*

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CERTIFICATE OF SERVICE

I hereby certify that on August 29, 2016, a copy of the foregoing Answer was served by the Court's electronic filing system upon the following:

Adam Hiller
Hiller and Arban LLC
1500 N French St 2nd Fl
Wilmington, DE 19801

Counsel for Plaintiffs

/s/ S. Libby Henninger
S. Libby Henninger